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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/684,869	10/06/2000	David Allison Bennett	PSTM0009/MRK/STM	2834

29524 7590 06/18/2007  
KHORSANDI PATENT LAW GROUP, A.L.C.  
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PASADENA, CA 91101-4710

EXAMINER
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PLUCINSKI, JAMISUE A

ART UNIT	PAPER NUMBER
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3629

MAIL DATE	DELIVERY MODE
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06/18/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/684,869	<b>Applicant(s)</b> BENNETT ET AL.	
	<b>Examiner</b> Jamisue A. Plucinski	<b>Art Unit</b> 3629	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 March 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 64-79 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 64-79 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 64-67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kara et al.(6,233,568) in view of Thiel (6,699,258).

4. With respect to Claim 64: Kara discloses the use of a shipping management computer system (see abstract) for:

- a. Receiving a set of package specifications (Figure 8, Box 802);
- b. Determining multiple shipping rates (first and second) for a first carrier (Figure 8, Boxes 807 and 808) ;

- c. Determining multiple shipping rates (third and fourth) for a second carrier (Figure 8, Boxes 807 and 808) ;
  - d. Receiving a request from a user to ship a package using one of the services by one of the carriers (See Figure 8, Column 5, lines 56-67) ;
  - e. Facilitating the delivery of the package (Column 6, lines 1-6).
5. Kara disclose the use of calculating and displaying rates for specific services, for multiple carriers, but fails to disclose the simultaneous display of rates for each carrier that includes rates of different services (Column 11, lines 1-13). Thiel discloses the use of a system for calculating rates for multiple carriers for multiple services (see abstract), and discloses the computer storing data for the rates of each service for each carrier in one table (Column 11, lines 1-13). Thiel also discloses that the system will walk the user through which service is wanted, however discloses displaying only the final rate for desired service for multiple carriers (Column 11, lines 46-54).
6. Kara and Thiel fail to disclose the “simultaneous” display of shipping charges for each service of each carrier. It would have been obvious to one having ordinary skill in the art at the time the invention was made, to display all charges simultaneously. All the rates of each service of each carrier are calculated by Kara and Thiel. Thiel even shows all the rates are stored in one table, however, they all require some sort of selection by the user before each charge is displayed. The way something is displayed, is not considered to be patentable over the prior art of record, therefore it would have been obvious for one of ordinary skill in the art to display all the calculated rates simultaneously for comparison purposes. It should also be noted that the claims are all drawn to system claims, which are limited to the actual systems and their capabilities, and that what information is actually displayed is considered to be printed matter,

Art Unit: 3629

and unless the information is used further in the system, then what is actually displayed is considered non-functional.

7. With respect to Claims 65-67: See Figure 8, Box 807 and 808.

8. Claims 68-79 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kara and Theil as applied to claim 64 above, and further in view of UPS® Service Guide ([www.ups.com](http://www.ups.com)) and FedEx® Services ([www.fedex.com](http://www.fedex.com)) and Barnett et al. (6,369,840).

9. With respect to Claims 68-79: Kara discloses the use of a shipping management computer system (see abstract) for:

- f. Receiving a set of package specifications (Figure 8, Box 802);
- g. Determining multiple shipping rates (first and second) for a first carrier (Figure 8, Boxes 807 and 808) ;
- h. Determining multiple shipping rates (third and fourth) for a second carrier (Figure 8, Boxes 807 and 808) ;
- i. Receiving a request from a user to ship a package using one of the services by one of the carriers (See Figure 8, Column 5, lines 56-67) ;
- j. Facilitating the delivery of the package (Column 6, lines 1-6).

10. Kara disclose the use of calculating and displaying rates for specific services, for multiple carriers, but fails to disclose the simultaneous display of rates for each carrier that includes rates of different services (Column 11, lines 1-13). Thiel discloses the use of a system for calculating rates for multiple carriers for multiple services (see abstract), and discloses the computer storing data for the rates of each service for each carrier in one table (Column 11, lines 1-13). Thiel also

Art Unit: 3629

discloses that the system will walk the user through which service is wanted, however discloses displaying only the final rate for desired service for multiple carriers (Column 11, lines 46-54).

11. Kara and Theil fail to disclose the “simultaneous” display of shipping charges for each service of each carrier. It would have been obvious to one having ordinary skill in the art at the time the invention was made, to display all charges simultaneously. All the rates of each service of each carrier are calculated by Kara and Thiel. Thiel even shows all the rates are stored in one table, however, they all require some sort of selection by the user before each charge is displayed. The way something is displayed, is not considered to be patentable over the prior art of record, therefore it would have been obvious for one of ordinary skill in the art to display all the calculated rates simultaneously for comparison purposes. It should also be noted that the claims are all drawn to system claims, which are limited to the actual systems and their capabilities, and that what information is actually displayed is considered to be printed matter, and unless the information is used further in the system, then what is actually displayed is considered non-functional.

12. Kara discloses a display where the rates of each carrier are displayed adjacent to the selected services (See Figures 8A). However Kara does not specifically disclose the rates being calculated with respect to day and time. Both UPS® and FedEx® disclose specific services where they are guaranteed delivery by a certain time in the day. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the time sensitive “urgency” services, as disclosed by FedEx® and UPS®, in order to ship thing and compete with a time advantage using guaranteed delivery times and to reduce costs, when delivery time is not of importance. (See Fed Ex Page 1). Kara, Theil, UPS® and FedEx® fail to

Art Unit: 3629

disclose the use of a simultaneous display with shows the date and time of services Barnett discloses the use of a calendar which can be used for online purchasing of services (column 2, lines 63-67), where there is a graphical representation of date on one axis and time on another (See Figure 9). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the display of rates of Kara, Theil, UPS® and FedEx® with respect to day and time, include the day and time, as disclosed by Barnett, in order to provide a single integrated display that allows a user to order or purchase a system based on the calendar day and time (See Barnett, column 2).

### ***Response to Arguments***

13. With respect to Applicant's argument that "The asserted Conclusion of Obviousness is Not Supported by Sufficient Evidence...": As stated in the office action the way something is displayed, whether it be simultaneous or by a user interaction of clicking check mark boxes in a screen is not considered to be patentable over the prior art of record. The claims are drawn to system claims. In the system of Nicholls, Kara and Theil the calculation of all the rates are done, and displayed, so if the content of the display is not used further in the claim, then what is actually displayed is descriptive material, and does not functionally or structurally change or effect the system, as claimed. Applicant's arguments are not considered to be persuasive and the rejection stands as stated above.

14. With respect to Applicant's argument that Theil does not Support the Asserted Ground for the Rejections: The applicant has stated that the cited Theil table provides stored comparison of base rate components, not of shipping rates that have been calculated by the claimed system.

Art Unit: 3629

Theil is relied on for showing a computer storing data for the rates of each service for each carrier in one table, the displaying of the simultaneous rates is made in the subsequent paragraph/obvious statement. Theil is not relied on for displaying the rates, merely storing them in one table. Therefore the examiner considers Theil to disclose the limitation on which it is relied on.

15. With respect to Applicant's argument of the Printed-Matter rejection: As stated above, it is the examiner's position that the way something is displayed, whether it be simultaneous or by a user interaction of clicking check mark boxes in a screen is not considered to be patentable over the prior art of record. The claims are drawn to system claims. In the system of Nicholls, Kara and Theil the calculation of all the rates are done, and displayed, so if the content of the display is not used further in the claim, then what is actually displayed is descriptive material, and does not functionally or structurally change or effect the system, as claimed. The applicant argues that Kara does not disclose the simultaneous display of multiple services for multiple carriers. Kara calculates rates for multiple services for multiple carriers, however simultaneous displays rates for multiple carriers for a selected service, and discloses determining which carrier would ship a package with the specified parameters and only displaying those carriers (column 22). Kara is fully capable of calculating rates for multiple carriers for multiple services, however is not done simultaneously. Theil discloses the rates using the tables are calculated simultaneously, however the out put to the user is only the final rate for the selected service. And as stated previously the way something is displayed is not considered to be patentable subject matter. Arguments are not considered to be persuasive and rejection stands as stated above.



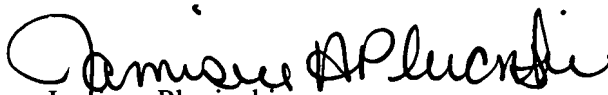
16. With respect to Independent Claim 74, and corresponding dependent claims with the display of day and time, arguments are moot in view of the new rejection as set forth above.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Plucinski whose telephone number is (571) 272-6811. The examiner can normally be reached on M-Th (5:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Jamisue Plucinski  
Primary Examiner  
Art Unit 3629